

REMARKS

Claims 1-14, 16-36, 39-40, and 65-79, and 81-93 are pending. Claims 1, 26, 39 and 93 are independent claims. Claims 1, 13, 26, 31, 39 and 78 have been amended. Reconsideration of the present application is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 18, 21-23, 25, 66, 83, 86-87, 89-90 and 93 stand rejected under 35 U.S.C. § 102(e) as being anticipated by The Office's rejection is respectfully traversed.

• **Claim 1 and its dependent claims 18, 21-23, 25, 66, 83, 86-87, and 89-90**

Claim 1 as amended requires an “addressing module for processing said instructions from the content provider for extracting addressing information that identifies one or more digital radio broadcast receivers for receiving said over the air transmissions of data content” (emphasis added). Support for this amendment is found in at least paragraphs [48], [50], [69], [120], [127] and [192] of the present application.

This feature of claim 1 is not disclosed by Corts. The Office relied on paragraphs [237]-[238], [278] and [285] of Corts as “disclosing an addressing module for processing said instructions from the content provider for extracting addressing information.” Office Action p. 3. These paragraphs of Corts do not disclose the addressing module of claim 1 as amended.

Paragraph [237] of Corts identifies a parameter for “the position or location *on* an IBOC signal receiving device *where the datacast element is to be placed*” (emphasis added). This parameter is understood to identify where a receiving device should store received information. It does not include the claimed addressing information for identifying one or more digital radio broadcast receivers for receiving said over the air transmissions of data content.

Likewise, paragraph [238] identifies a parameter for “the *specific station(s)* from which [data] will be broadcast” (emphasis added). This parameter also fails to include the claimed addressing information, which identifies one or more digital radio broadcast *receivers* for receiving said over the air transmissions of data content.

Paragraph [278] of Corts states that the described “black box” “packages appropriate datacast element for inclusion in the datacast based on parameters saved on central servers and passed along to the black box.” This function of the black box does not correlate to the addressing module of claim 1 for processing instructions from the content provider for extracting addressing information that identifies one or more digital radio broadcast receivers for receiving said over the air transmissions of data content.

Paragraph [285] of Corts describes formatting and timing directives used to render data, including “codes to identify the datacast’s *consumer*” (emphasis added). There is no disclosure in Corts that such consumer codes are equivalent to Claim 1’s addressing information that identifies one or more *digital radio broadcast receivers* for receiving over the air transmissions of data content. If anything, Corts suggests a fundamentally different approach from claim 1 for targeting broadcasts to listeners. Corts suggests using demographic data of listeners for radio stations, such as “all males between the ages of 25-34 with a household income of \$35,000 or more,” to identify particular *broadcast facilities* “whose audience has the greatest population or concentration of the desired target.” Corts [222]. See also Corts [304]. In contrast, claim 1 as amended uses addressing information that identifies a *specific receiver or receivers* that can receive particular content.

For at least the above-noted reasons, and for other reasons already of record, withdrawal of the rejection and allowance of independent claim 1 is respectfully requested. Dependent claims 18, 21-23, 25, 66, 83, 86-87, and 89-90 are allowable at least by virtue of dependency.

- **Claim 93**

Independent claim 93 requires “an exciter for receiving the encoded data content from the gateway and for broadcasting the data content over the air via digital radio broadcast transmission.” The Office relied on paragraph [197] of Corts as disclosing this limitation of claim 93, but this portion of Corts does not disclose an exciter. In fact, the word “exciter” does not appear anywhere in Corts. At most, Corts discloses that “data is transferred to a radio station or other broadcast facility where it is combined with the digital audio and inserted into the broadcast.” Corts [197]. But it does not disclose that such a function is performed by an “exciter for receiving the encoded data content from the gateway and for

broadcasting the data content over the air via digital radio broadcast transmission" as required by claim 93. For at least the above-noted reason, and for other reasons already of record, withdrawal of the rejection and allowance of independent claim 93 is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 2-14, 16, 17, 19, 20, 24, 26-36, 40, 65, 67-79, 81, 82, 84, 85, 88, 91, and 92 stand rejected under 35 U.S.C. § 103 as being obvious based on the combination of Corts with various other references and official notice. The Office's rejections are respectfully traversed.

• Claims 13-14, 16, 78-79 and 81

Claims 13-14, 16, 78-79 and 81 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts. These claims depend from claim 1. It is respectfully submitted that the rejections of these claims is overcome by the arguments set forth above in connection with the independent claim 1.

Moreover, with respect to the Office's rejection of claims 13-14 and 78-79 in particular, applicant respectfully disagrees with the Office's interpretation of Corts. Claims 13 and 78 as amended, as well as claims 14 and 79 by virtue of their dependency, require addressing information that includes a unique identifier, said identifier used in targeting said transmitted data content to a specific user agent. The Office relied on paragraphs [225] and [237] of Corts as teaching this aspect of the claims. Office Action, p. 5. Paragraph [225], however, merely describes "required data" for a commercial transaction such as when a listener desires to make a purchase, such data including "information that identifies the listener." Corts does not state that this information is contained in instructions *provided by a content provider*, as required by claims 13-14 and 78-79 by virtue of their dependency on claim 1. Rather, while Corts does not specify, it is understood that the information for identifying the listener is provided by the listener himself, as is indicated by Corts' continuing description about "information regarding the action that the listener desired to be performed." Nor does Corts state that this information is included as part of a digital radio broadcast. Instead, this information apparently is "routed via a Wide Area Network" or "provided by devices such as a WAP device or PC." Corts [224].

Paragraph [237] of Corts is similarly deficient. As described above with respect to claim 1, Paragraph [237] of Corts identifies a parameter for “the position or location *on* an IBOC signal receiving device *where the datacast element is to be placed*” (emphasis added). This parameter is understood to identify where a receiving device should store received information. It does not include the claimed addressing information for identifying one or more digital radio broadcast receivers for receiving said over the air transmissions of data content.

For at least the above-noted reasons, withdrawal of these rejections and allowance of these claims are respectfully requested.

- **Claims 5, 20, 26, 39, 65, 85, and 91-92**

Claims 5, 20, 26, 39, 65, 85, and 91-92 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Garrity. Claims 5, 20, 85, and 91-92 depend from claim 1. It is respectfully submitted that the rejections of these claims is overcome by the arguments set forth above in connection with claim 1.

Independent claim 26, as amended, requires “processing said instructions from the content provider … to determine addressing information that identifies one or more digital radio broadcast receivers for receiving over the air transmissions” (emphasis added). Support for this amendment is found in at least paragraphs [48], [50], [69], [120], [127] and [192] of the present application. This feature of claim 26 is not disclosed by Corts, as had been described above with respect to claim 1.

Independent claim 39, as amended, requires computer readable program code that causes the digital radio broadcast system to process instructions from the content provider “to determine addressing information that identifies one or more digital radio broadcast receivers for receiving over the air transmissions” (emphasis added). Support for this amendment is found in at least paragraphs [48], [50], [69], [120], [127] and [192] of the present application. This feature of claim 39 is not disclosed by Corts, as had been described above with respect to claim 1.

Claim 65 depends from claim 26. It is respectfully submitted that the rejection of claim 65 is overcome by the arguments set forth above in connection with claim 26.

For at least the above-noted reasons, and for other reasons already of record, withdrawal of the rejection and allowance of claims 5, 20, 26, 39, 65, 85, and 91-92 is respectfully requested.

- **Claims 27-36 and 40**

Claims 27-36 and 40 were rejected because “they fail to define the above and beyond claims (already rejected claims 2, 3, 10, 12-14, 18, 23 and 25).” Office Action page 16.

Claims 27-36 depend from claim 26. It is respectfully submitted that the rejections of these claims is overcome by the arguments set forth above in connection with claim 26. Claim 40 depends from claim 39. It is respectfully submitted that the rejection of claim 40 is overcome by the arguments set forth above in connection with claim 39.

Moreover, the rejection of claims 27 and 28 is not proper. Claims 27, as well as claim 28 by virtue of its dependency,” require the step of “accessing a subscription profile database to identify one or more specific data content formats associated with one or more clients.” This limitation does not appear in any of the other dependent claims. Applicant submits that the rejection of these claims should be withdrawn, based on the arguments for independent claim 26, or else these claims should be examined on their own merits.

- **Remaining Claims**

The Office Action includes further rejections of various dependent claims in view of other combinations of applied references and in view of Official Notice:

Claims 2, 3, and 67-68 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Miller.

Claims 4 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Hirayama.

Claims 9 and 74 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts and Holur in view of Kadyk.

Claims 10, 17, 24, 75, 82 and 88 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Official Notice.

Claims 11 and 76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Marlow;

Claims 12 and 77 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Ellis;

Claims 19 and 84 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts in view of Thompson;

Claims 6-7 and 71-72 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts and Hirayama in view of Lin;

Claim 70 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Corts and Hirayama in view of Garrity.

It is respectfully submitted that the rejections of these claims are overcome by the arguments set forth above in connection with the independent claims. The Office's reliance upon these secondary references does not make up for the deficiencies of Corts discussed above with respect to the independent claims.

Accordingly, withdrawal of these rejections and allowance of the above-noted claims are respectfully requested for at least the above-noted reasons.

Conclusion

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

The Commissioner is authorized to charge any fees that may be required by this paper to Jones Day Deposit Account No. 503-013 to maintain the pendency of this application.

Respectfully submitted,

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